

FREQUENTLY ASKED QUESTIONS

Regulation of Bank Indonesia No.12/ 3 / PBI/2010 dated March 1, 2010 concerning the Application of Anti-Money Laundering and Prevention of Terrorism Financing for Non-Bank Foreign Exchange Traders

Q. What are the underlying issues of the issuance of this Regulation?

- A.
- a. This Regulation of Bank Indonesia was issued to adjust the provisions of Know Your Customer (KYC) Principles as regulated in Articles 40, 41, and 42 of Regulation of Bank Indonesia No.9/11/PBI/2007 concerning Foreign Exchange Traders, under international standard/recommendation of the Financial Action Task Force (FATF) in order to give a more comprehensive support for effort to prevent criminal acts of money laundering and prevention of terrorism fund.
 - b. to prevent the increasing risks faced by Foreign Exchange Traders, among other things, the use of Non-Bank Foreign Exchange Traders as facilities to commit the criminal acts of money laundering.

Q. What is Money Laundering and Terrorism Financing?

- A. Money Laundering is an act of placing, transferring, disbursing, spending, granting, donating, entrusting, taking abroad, changing or any other actions against assets known or reasonably suspected as proceeds of a criminal act with the intention of concealing or covering the origin of such assets so that the aforementioned assets will seem as if they were legal assets.
- Terrorism Financing is the use of assets directly or indirectly for terrorism activities.

Q. What is Anti-Money Laundering and Prevention of Terrorism Financing (APU and PPT)?

A. APU and PPT are efforts for preventing and eradicating Criminal acts of money laundering and Terrorism Financing.

Q. What are the principal points of change of the provisions of Know Your Customer Principles (KYC) as regulated in Articles 40, 41, 42 of Regulation of Bank Indonesia No.9/11/PBI/2007 concerning Foreign Exchange Traders compared to the provisions in this Regulation of Bank Indonesia?

A. The principal points of change between the provisions of the KYC as regulated in Articles 40 up to 42 of Regulation of Bank Indonesia No.9/11/PBI/2007 concerning Foreign Exchange Traders compared to the provisions of this Regulation of Bank Indonesia are as follows:

- a. The use of the term *Application of Anti-Money Laundering and Prevention of Terrorism Financing Programs (APU and PPT)* for Non-Bank Foreign Exchange Traders which contains a more comprehensive and broader definition compared to the term KYC.
- b. New regulations concerning Anti-Money Laundering and Prevention of Terrorism Financing Programs which consist of:
 - a) responsibilities of the Board of Directors and active supervision by the Board of Commissioners
 - b) policies and procedures of Anti-Money Laundering and Prevention of Terrorism Financing which include:
 - i) implementation of *Customer Due Diligence* (CDD)
 - ii) Beneficial Owner
 - iii) implementation of *Enhanced Due Diligence* (EDD)
 - iv) rejection of transaction
 - v) updating of information and documents
 - vi) administration of documents

- vii) reporting to PPATK
- c) internal control
- d) human resources

Q. Does the application of Anti-Money Laundering and Prevention of Terrorism Financing programs constitute an obligation for Non-Bank Foreign Exchange Traders?

A. Yes, Non-Bank Foreign Exchange Traders are obligated to apply Anti-Money Laundering and Prevention of Terrorism Financing programs as regulated in the law regulating the criminal acts of money laundering and provisions stipulated by Bank Indonesia.

Q. Who would be responsible for the application of Anti Money Laundering and Prevention of Terrorism Financing by Non-Bank Foreign Exchange Traders?

A. The application of Anti-Money Laundering and Prevention of Terrorism Financing program by Non-Bank Foreign Exchange Traders is the responsibility of the Board of Commissioners and the Board of Directors.

Q. What matters must be taken into account in connection with the written policies and procedures for the application of Anti-Money Laundering and Prevention of Terrorism Financing which are obligated to be owned by Banks?

- A.
- a. such policies and procedures are included in the guideline for the implementation of Anti-Money Laundering and Prevention of Terrorism Financing programs;
 - b. such policies and procedures must be implemented consistently and continuously;

- c. the guideline for the implementation of Anti-Money Laundering and Prevention of Terrorism Financing must be approved by the Board of Commissioners; and
- d. policies and procedures included in the guideline for the implementation of Anti-Money Laundering and Prevention of Terrorism Financing shall be submitted to Bank Indonesia within the determined period.

Q. What are the responsibilities of the Board of Directors in the application of Anti-Money Laundering and Prevention of Monetary Laundering and Terrorism Financing?

- A. Responsibilities of the Board of Directors of Non-Bank Foreign Exchange Traders at least include:
- a. to stipulate written policies and procedures for the application of Anti-Money Laundering and Prevention of Terrorism Financing programs based on the approval of the Board of Commissioners;
 - b. to ensure that the application of Anti-Money Laundering and Prevention of Terrorism Financing program is implemented in accordance with the stipulated written policies and procedures;
 - c. to make an adjustment to the written policies and procedures concerning Anti-Money Laundering and Prevention of Terrorism Financing programs in line with the change made to the applicable provisions related to the application of Anti-Money Laundering and Prevention of Terrorism Financing programs;
 - d. to report Suspicious Transactions and Cash Financial Transactions to PPATK;
 - e. to ensure that all employees have knowledge and/or receive training on the application of Anti-Money Laundering and Prevention of Terrorism Financing programs;
 - f. to update clients' profiles and clients' transaction profiles.

Q. What are the roles of the Board of Commissioners in the application of Anti-Money Laundering and Prevention of Terrorism Financing programs?

A. The active supervision performed by the Board of Commissioners include at least:

- a. to approve the application of Anti-Money Laundering and Prevention of Terrorism Financing program policy; and
- b. to supervise the implementation of the responsibilities of the Board of Directors with regard to the application of Anti-Money Laundering and Prevention of Terrorism Financing programs.

Q. When will Non-Bank Foreign Exchange Traders be obligated to implement CDD?

A. Non-Bank Foreign Exchange Traders are obligated to implement CDD when:

- a. conducting transaction with and/or providing services to Clients and/or Beneficial Owner; or
- b. there is doubt about the accuracy of the information submitted by Clients and/or Beneficial Owner.

Q. What measures must be taken by Non-Bank Foreign Exchange Traders when performing CDD to the Clients and/or Beneficial Owner?

A. Non-Bank Foreign Exchange Traders shall be obligated:

- a. to inquire Clients' information and to verify it with supporting documents containing the information of Clients; and
- b. to obtain information whether the Clients intending to conduct the transaction and/or provide services are acting on their own behalf or on behalf of the Beneficial Owner.

- c. to apply equally strict CDD procedures on Beneficial Owners as those applied on the Clients representing Beneficial Owners and to require information concerning the relationship between the Clients and the Beneficial Owner.

Q. What is Beneficial Owner, Customer Due Diligence (CDD), Enhanced Due Diligence (EDD), Politically Exposed Person (PEP)?

- A.** *Beneficial Owner* is any person who owns funds, controls clients' transactions, and authorizes a transaction and/or exercises controls through a legal entity or agreement.

Customer Due Diligence, hereinafter referred to as CDD is an activity in the form of identification, verification and updating of information performed by Non-Bank Foreign Exchange Traders to ensure that such transaction fits the Clients' profile.

Enhanced Due Diligence, hereinafter referred to as EDD is a more comprehensive CDD performed by a Non-Bank Foreign Exchange Traders when conducting transaction and/or establishing a business relationship with a high-risk Customer, including Politically Exposed Person, in relation to potential money laundering and terrorism financing.

Politically Exposed Persons, hereinafter referred to as PEP are persons entrusted to have public authority, among others, State Administrators as intended in the laws and regulations governing State Administrators, and/or persons registered as members of a political party who have influence on the policies and operations of such political party.

Q. What is the method for implementing CDD to Clients and Beneficial Owner?

- A.** (1) For Clients conducting transaction and/or using services with the value less than Rp.100,000,000.00 (one hundred million Rupiah) or

equivalent value in foreign currencies, the information shall, at a minimum include:

- a. for individual clients
 - 1) identity of the customer which includes:
 - a) full name including the alias if any;
 - b) identity document number evidenced by showing the document concerned; and
 - c) residential address indicated in the identity card;
 - 2) information on the *Beneficial Owner*, if the Customer is representing a Beneficial Owner; and
 - 3) value and date of the transaction .
- b. for clients other than individual clients:
 - 1) name of business entity;
 - 2) business permit number issued by an authorized agency;
 - 3) address of domicile of the business entity;
 - 4) information on the Beneficial Owner, if the Customer is representing a Beneficial Owner; and
 - 5) value and date of the transaction.

(2) For clients conducting transaction and/or using services with the value of Rp.100,000,000.00 (one hundred million Rupiah) or more or an equivalent value in a foreign currencies in 1 (one) or several transaction(s) in 1 (one) business day, the information shall, at a minimum include:

- a. for individual clients
 - 1) identity of the clients which include:
 - a) full name and the alias if any;
 - b) identity document number evidenced by showing the document concerned; and;

- c) residential address set out in the identity card;
 - d) current residential address and telephone number if any;
 - e) place and date of birth;
 - f) nationality;
 - g) occupation;
 - h) gender; and
 - i) Taxpayer Registration Number (NPWP) if any.
- 2) information on the Beneficial Owner, if the Customer is representing a Beneficial Owner; and;
 - 3) value and date of the transaction;
 - 4) purposes and objectives of the transaction and/or the use of service; and
 - 5) other information allowing Non-Bank Foreign Exchange Traders to identify clients' profiles.
- b. for clients other than individual clients:
- 1) name of business entity;
 - 2) business permit number issued by an authorized agency;
 - 3) Taxpayer Registration Number of (NPWP) of the business entity;
 - 4) address of domicile of the business entity;
 - 5) type or sector of business;
 - 6) information on the Beneficial Owner, if the Customer is representing a Beneficial Owner; and;
 - 7) value and date of transaction;
 - 8) purposes and objectives of the transaction and/or business relationship; and
 - 9) other information allowing Non-Bank Foreign Exchange Traders to identify clients' profiles.

Q. When will Non-Bank Foreign Exchange Traders be obligated to implement EDD?

A. Non-Bank Foreign Exchange Traders shall be obligated to implement EDD when:

- a. conducting transactions classified into high-risk transactions with and/or providing services to the Clients and/or Beneficial Owner, including Politically Exposed Persons; or
- b. there are alleged unusual transactions related to money laundering and/or terrorism financing.

Q. What information is required for the implementation of EDD?

A. Information required for the implementation of EDD shall at least include:

- a. information on Clients and/or Beneficial Owners as the CDD process;
- b. source of funds;
- c. purpose and objectives of the transaction;
- d. propriety of the transaction profile; and
- e. other information on the business relationship with parties related to the clients or Beneficial Owner.

Q. What are the criteria for rejecting a transaction?

A. Non-Bank Foreign Exchange Traders shall be obligated to reject a transaction with and/or provide services to Clients, in the event that such Clients:

- a. fail to fulfill information requirement in accordance with the CDD and EDD provisions for both clients and Beneficial Owner;
- b. are known to use false identity and/or provide inaccurate information.

Q. How is clients' data updated?

- A. Non-Bank Foreign Exchange Traders shall be obligated to update and administer clients' information and documents and to monitor the aforementioned clients' information and document.

Q. How long is the period for the mandatory administration of documents related to Clients?

- A. Non-Bank Foreign Exchange Traders shall be obligated to administer:
- a. documents related to the information of clients and Beneficial Owner for a minimum period of 5 (five) years as of the end of the transaction and/or provision of services to the Clients.
 - b. Clients' and Beneficial Owner's data related to financial transaction for a period as regulated in a law governing company's documents.

Q. Are there any new matters related to the reporting to PPATK?

- A. Non-Bank Foreign Exchange Traders shall be obligated to submit Suspicious Financial Transaction, Cash Financial Transaction report and other reports as provided for in the Law governing the criminal acts of money laundering to PPATK.

The obligation of Non-Bank Foreign Exchange Traders to report Suspicious Financial Transaction shall also apply to alleged transactions related to terrorism activity and/or terrorism financing.

Q. What sanctions will be imposed by Bank Indonesia in the event that Non-Bank Foreign Exchange Traders fail to comply with this Bank Indonesia Regulation?

- A. Bank Indonesia shall impose special warning sanction in the event that Non-Bank Foreign Exchange Traders fail to perform their obligation as regulated herein.

Bank Indonesia shall impose a sanction in the form of revocation of business permit in the event that Non-Bank Foreign Exchange Traders fail to follow-up the aforementioned special warning sanction within a maximum period of 6 (six) months after the date of issuance of the sanction.

Q. What measures must be taken by Non-Bank Foreign Exchange Traders having their own Policies and procedures concerning the application of Know-Your-Clients Principles?

- A. Non-Bank Foreign Exchange Traders having their own Guidelines for the Implementation of the Application of Know-Your-Clients Principles shall be obligated to make an adjustment to their policies and procedures to become the Policies and Procedures for the Application Anti-Money Laundering and Prevention of Terrorism Financing programs and to submit such adjustments to Bank Indonesia by no later than 12 (twelve) months as of the application of this Regulation of Bank Indonesia.

Q. When this Regulation of Bank Indonesia will take effect?

- A. This Regulation of Bank Indonesia shall take effect as of the date of its stipulation. As for the imposition of sanctions, it shall be come into effect as of 12 (twelve) months after the stipulation of this Regulation of Bank Indonesia.